

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

BRIAN FOWLKES,

Petitioner,

V.

THE ATTORNEY GENERAL OF THE  
STATE OF NEW JERSEY, *et al.*,

Respondent.

Case No. 3:21-cv-7734 (BRM)

# MEMORANDUM ORDER

*Pro se* Petitioner, Brian Fowlkes, is a state prisoner confined at the New Jersey State Prison in Trenton, New Jersey. Petitioner filed a habeas petition pursuant to 28 U.S.C. § 2254. (*See* ECF 1.) The habeas petition failed to include the \$5.00 filing fee, or, alternatively, Petitioner did not include an application to proceed *in forma pauperis*. Therefore, this case is administratively closed. Petitioner shall have the opportunity to reopen this action should he choose. Accordingly,

**IT IS** on this 6th day of April 2021,

**ORDERED** the Clerk of the Court shall **ADMINISTRATIVELY TERMINATE** this case, Petitioner is informed an administrative termination is not a “dismissal” for purposes of the statute of limitations, and if the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely, *see Papotto v. Hartford Life & Acc. Ins. Co.*, 731 F.3d 265, 275 (3d Cir. 2013) (distinguishing administrative terminations from dismissals), and it is further

**ORDERED** if Petitioner wishes to reopen this case, he shall so notify this Court in writing within thirty (30) days of the date of entry of this memorandum and order; Petitioner's writing

shall include either the \$5.00 filing fee or a complete application to proceed *in forma pauperis* as well as a signed copy of his habeas petition on the proper form; and it is further

**ORDERED** upon receipt of a writing from Petitioner stating that he wishes to reopen this case and either the \$5.00 filing fee or a complete application to proceed in forma pauperis as well as a signed copy of his habeas petition on the proper form, the Clerk will be directed to reopen this case; and it is finally

**ORDERED** the Clerk shall serve upon Petitioner by regular U.S. mail: (1) a copy of this memorandum and order; and (2) a blank form application to proceed in forma pauperis by a prisoner in a habeas corpus case.

/s/Brian R. Martinotti

**HON. BRIAN R. MARTINOTTI**  
**UNITED STATES DISTRICT JUDGE**